EXHIBIT H

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Kate Giard, Chair
Dave Harbour
Mark K. Johnson
James S. Strandberg
Anthony A. Price

In the Matter of the Commission Review of Rules and Regulations Governing Telecommunications Rates, Charges Between Competing Telecommunications Companies, and Competition in Telecommunications	)))))	R-03-3

GCI'S REPLY COMMENTS

I. Introduction

In accordance with Order R-03-3(11), dated April 8, 2005, initial comments on the proposed regulations issued in this matter were filed by AT&T Alascom[1], ACS[2], MTA[3], the Rural Coalition, and GCI[4]. While some issues remain, all comments indicate a general consensus with the Commission's overall approach.

GCI hopes that the various reply comments will provide even greater consensus. GCI does not oppose several of the refinements to the regulations requested by ACS, MTA, and the Rural Coalition, even on issues where those parties predicted GCI opposition to such changes. However, GCI must clarify certain

[1] Alascom, Inc.
[2] Alaska Communication Systems
[3] Matanuska Telephone Association, Inc.
[4] GCI Communication Corp. d/b/a General Communication, Inc and d/b/a GCI

distortions of the record introduced by MTA and the Rural Coalition to support the proposed refinements.

GCI does oppose some of the changes proposed by other parties. Most significantly, the Rural Coalition proposed amendments to the regulation on rate rebalancing that would have the effect of selecting the Rural Coalition's approach to rate rebalancing over the case-by-case adjudication favored by the Commission. The Rural Coalition's comments do not include any discussion of their drastic changes, but the amendments' appears in the Rural Coalition's proposed regulatory language.

It appears that the final regulations adopted in this matter will include virtually all of the provisions that the rural incumbent local exchange carriers (ILECs) stated that they need in order to respond to competitive entry. Therefore, the ILECs should not then be allowed to also thwart competitive entry, as they are attempting to do in Docket R-05-4. Nor should the Commission consider any new provisions to thwart competitive entry that the ILECs may raise, for the first time, in reply comments.

II. Discussion

A. Provisions regarding local exchange markets

1. Proposed 220(a) and 299(10), Dominant status in rural markets and the definition of competitive local exchange market.

ACS, the Rural Coalition, and MTA each argued that the "shortcut" to non-dominant status in rural areas allowed by 3 AAC 53.220(a) should apply in all areas served by a rural telephone company, regardless of whether or not the rural telephone

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

company holds a rural exemption. As a practical matter, GCI agrees and GCI does not object to changing "a telephone company holding a rural exemption" to "a rural telephone company as defined by 47 U.S.C. Section 153(37)"[5]

ACS and MTA also each proposed expanding the same "shortcut" to apply when competitive entry takes place by wireless local loop rather than by wireline facilities. Again, GCI agrees. However, GCI would go further and allow the shortcut to apply in the event of any type of competitive, facilities-based entry by a certificated competitor. Thus, the lesser standard for non-dominance would apply if a competitor with some facilities entered primarily using unbundled network elements from the incumbent local exchange carrier (ILEC).[6]

Incorporating these two changes, 3 AAC 53.220(1)(1) would read:

> (1) in an exchange served by a rural telephone company as defined by 47 U.S.C. Section 153(37) and where a second certificated facilities based local exchange carrier offers service to the public.

ACS, MTA, and the Rural Coalition also each proposed a modification to 3 AAC 53.299(10) so that an area would be deemed a "competitive local exchange market" even if a second certificated carrier is not actually providing service "throughout" the exchange. As explained by their comments, this modification is needed to deal with the situation where GCI's competitive entry may not serve 100%

[5] GCI does not believe that it would have been appropriate, at the outset, to apply the lesser standard for non-dominance in Fairbanks and Juneau. However, current conditions support the treatment of those markets as nondominant now, so the theoretical harm of bringing those areas within 3 AAC 220(a) is moot.

[6] According to FCC decisions, a carrier that owns some facilities and also uses UNE's is "facilities based."

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2550 Denali Street, Suite 1000
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(907) 265-5600

of the customers within an exchange area. Once again, GCI agrees that the regulation should be modified to address this situation and that "throughout" is not the proper term.

Although GCI agrees that requiring facilities-based competitive service "throughout" the exchange before the market is deemed competitive is overly restrictive, a market should not be deemed competitive upon mere certification. Certification may precede provision of service by a substantial period of time, and some restriction based on the concept of actually being able to provide service to more than a trivial number of customers should be incorporated into the regulation. GCI suggests:

> "Competitive local exchange market" means a local exchange or group of local exchanges within one certificated service area where multiple telecommunications providers are certificated to provide local exchange service and offer to provide local exchange service to at least a significant portion of the customers in the exchange or group of exchanges;....

This language would **not** require any loss of market share by the incumbent, but would require that a competitive option exist for some significant portion of the market.

GCI's support for this approach is coupled with its proposal in initial comments to protect those customers within the competitive market who do not have a competitive choice. That proposal would prevent the ILEC from targeting such captive customers with rate increases without providing full cost support and, GCI

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

hopes, that proposal would provide such captive customers with the benefits of competition. Based on their initial comments, MTA and the Rural Coalition appear to agree with that proposal. Both MTA and the Rural Coalition state that they wish to serve the entire exchange with the same tariff, without differentiating between those that have a competitive choice and those that don't. (Rural Coalition Comments, p. 14; MTA Comments, p. 9) That is the consistent with the intent of the proposal presented in GCI's initial comments, and it should be made explicit in the regulations.

As should be clear from the foregoing, GCI is not attempting to restrict the ability of any of the rural ILECs to compete against GCI. However, even though GCI accepts the proposed refinements of the proposed regulations, GCI strenuously disagrees with some of the advocacy and distortion of the record presented by other parties.

First, it is absolutely untrue that GCI agreed that under current regulations the Commission has treated GCI and ASC differently for rate decreases and repackaged services, suspending ACS's tariff filings while allowing GCI's filings to go into effect. (ACS Comments, p. 4; MTA Comments, p. 3). GCI has already corrected the Rural Coalitions mis-statement once on this issue.[7] What GCI said was that the Commission did not allow either carrier's tariff changes to go into effect without

[7] The Rural Coalition previously made the same incorrect claim regarding GCI's statements, and GCI has already pointed out the Rural Coalition's misunderstanding. (GCI's Post Hearing Reply Comments, R-03-3, pp. 12-13). Repetition of the distortion a second time goes beyond the bounds of fair and acceptable advocacy.

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

approval, contrary to the intent of the regulations that have previously been in effect in competitive markets.

Perhaps more importantly, GCI adamantly disagrees with MTA and the Rural Coalition's unsupported statements regarding the severe financial harm that they will suffer from small losses in market share. MTA and the Rural Coalition filed absolutely no supporting analytical or quantitative data. GCI, on the other hand, previously filed quantitative analysis showing that the present access charge and universal service systems provide rural ILECs with significant insulation from the effects of market share loss.[8] The Rural Coalition offered did not effectively rebut GCI's analysis; its primary point was that GCI had looked at the "total company" rather than just local exchange operations. That criticism is factually correct but logically irrelevant. When evaluating whether market share losses threaten the financial viability of these ILECs, the impact on the total company results is the proper test.

Furthermore, these ILECs have significant control over the losses that they will incur from competitive entry. The 50% market share loss of ACS in Anchorage frequently cited by the Rural Coalition was the direct result of ACS's 25% rate increase in a competitive market. Other ILECs are not likely to repeat ACS' strategic error.

[8] See GCI's Post Hearing Comments, pp. 8-9 and Exhibit A (July 6, 2004). GCI's model showed that a 40% loss in market share by CVTC would cause less than 1% loss in total revenues!

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Additionally, these ILECs could also reduce the financial impact of market share losses by voluntarily entering into an agreement to provide GCI unbundled network elements, wholesale resale, and quality service at rates that are more favorable than GCI's cost of providing service over its own facilities.[9] These ILECs previously testified to the Commission that UNE-based entry is actually better for the ILEC than full facilities based entry because the ILEC continues to receive revenues from UNEs and resale. (Rural Coalition Reply Comments, R-03-3, (February 24, 2004)) Those statements were made when the ILECs' focus in R-03-3 was on controlling wireless competition. Now, without explaining the change in their position, the ILECs are fighting UNE-based entry with all the regulatory tools they can muster, forcing GCI to build its own facilities.

Other options are also open to the ILECs. The current ILEC market structure, with approximately 20 different ILECs, each with its own high-paid executives and duplicative staff and operating overhead, is probably not efficient. Consolidation may be appropriate and in the public interest, with or without local exchange competition. The ILECs could save substantial costs, better serve their customers, and better meet competition with such consolidation.

Ignoring all of these options, the ILECs' comments focus on the possibility of bankruptcy from competition. This "sky is falling" approach is really nothing more

[9] Any such agreement would have to be reached before GCI makes investments in facilities based entry.

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

than an attempt to gain sympathy for the ILEC's attempts in Docket U-05-4 to prevent competitive entry in their markets and should be ignored.

2. Rural Coalition proposed 3 AAC 53.290(j), return to monopoly

The Rural Coalition continues its campaign of fear by proposing a regulation that would impose all forms of traditional rate of return regulation on any market that returns to being served by a single provider. GCI strongly believes that no markets will return to monopoly status, so the regulation is unnecessary. However, in the unlikely event that a market does return to a single provider, GCI suggests that the Commission address that situation when it occurs. GCI strongly hopes that the Commission will then consider alternatives to the current system of rate base/rate of return regulation with inherently inefficient incentives.

3. 3 AAC 53.220(c), Services such as access that remain competitive

The Rural Coalition argued that 3 AAC 53.220(c) should be deleted and that non-dominance should include all services, including services such as access service to interexchange carriers. AT&T Alascom, on the other hand, urged continued and even tighter control over access charges, including a return to USOA[10].

This issue has been thoroughly discussed in earlier rounds of comments. Two of the services that had previously been on the list to remain regulated were removed, and GCI supports the regulation as now proposed.

[10] Uniform System of Accounts

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

In particular as to access charges, GCI notes that the comments of ACS in response to Harbour/Price Question No. 4 are quite similar to the initial comments of GCI. (ACS Comments, Exhibit A, p. 4) Both GCI and ACS noted that, as proposed, access charges will be capped after competitive entry and that full support would be needed to raise the cap, even by a utility otherwise exempt from accounting standards such as the USOA. GCI believes that this approach provides adequate protection against unreasonable access charges, even without increasing regulation by generally re-imposing USOA requirements as proposed by AT&T Alascom.

GCI also agrees with ACS' comment that the current access charge regime is under federal review in the FCC's "Intercarrier Compensation" proceeding. The current regime is likely to change the access charge regime very significantly, and in ways that assure reasonable access. The regulations as proposed, combined with other regulations and the provisions of the Intrastate Interexchange Access Charge Manual, are adequate to assure that access charges do not increase unreasonably. AT&T Alascom's proposals for further changes regarding access charges are unnecessary.

4. 3 AAC 53.243, use of the term "tariff"

ACS suggests that the there is a better term than "tariff" to describe the list of products and prices that a carrier will maintain in a market with no dominant carrier. ACS suggests that the term is not appropriate in the proposed new regulatory regime,

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

and ACS states that "the Commission can prescribe a new document to be submitted as an informational filing and maintained for public review." (ACS Comments, p. 9)

GCI partially agrees with ACS that, ideally, "tariff" is not the best word to use in the context of 3 AAC 53.243. However, GCI also believes that, before any other term could be used, the Commission would in fact have to "prescribe a new document to be submitted as an informational filing and maintained for public review." (ACS Comments, p. 9) That would be necessary so that the website available for public review would have all the information that is necessary to be meaningful.

The problem is that there is not adequate time to prescribe the new document, and selecting an alternative term at this late date would leave the term undefined and subject to controversy. Thus, at this time, GCI supports use of the term "tariff".

5. Proposed 3 AAC 53.243(e), Advance Notice to Resellers.

GCI believes that, in large part, this issue has been adequately addressed in prior comments. GCI disagrees with ACS' proposal to now change this regulation, designed to address total service resale, so that it becomes a new, seven day notice requirement by all local carriers to all other local carriers.

ACS' preferred position is that the issue should be dealt with in the context of interconnection agreements. GCI would accept that solution so long as the Commission includes a regulation providing that any local exchange carrier that provides advance notice to any other local exchange carrier that purchase service at wholesale for resale must provide the same advance notice to all other local exchange

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

carriers that purchase service at wholesale for resale. In other words, an ILEC should not be allowed to discriminate between its total service resale customers.

6. Proposed 3 AAC 53.243(g)(2), special contracts in markets with no dominant carrier.

In its comments ACS interprets proposed AAC 53.243(g)(2) as requiring the public filing of all information in order to take advantage of the streamlined process. GCI agrees that the regulation should be interpreted in that way, and GCI suggested language in its initial comments to clarify that interpretation.

ACS also argued that if the information is to be public, then the entire contract should be filed rather than a summary. In support, ACS cited the administrative convenience of eliminating the need to create a summary.

GCI partially agrees. GCI suggests that the regulation be amended to allow the alternatives of filing of a summary, as now specified in the proposed regulation, or a copy of the full contract. Adding the alternative of filing the entire contract appears to have no disadvantages, and it would allow carriers to choose that alternative if they desire.

7. Proposed 3 AAC 53.243(i), Modification of rates, terms, or conditions of service.

ACS proposes to amend proposed 3 AAC 53.243(i) so that the Commission could review rates in markets without a dominant carrier only if a complaint is filed by consumers, another company, or the Regulatory Affairs and Public Advocacy

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

section (RAPA). In support of its proposal, ACS cited due process principles and the concept of "separation of powers." The effect of ACS' proposal would prevent the Commission from investigating rates on its own initiative, through its staff.

Idealistically, GCI is not entirely opposed to ACS' approach. However, GCI observes that ACS' arguments, if accepted, may require more thorough and fundamental changes than a mere amendment of this section. There are numerous instances in the Commission regulation and practice where actions are initiated by the Commission and its staff. Additionally, the approach advocated by ACS would probably require that RAPA have a much larger staff and funding than it does now. Consumers generally lack time and expertise to pursue rate issues on their own.

Finally, the approach recommended by ACS is not required to avoid due process concerns. The Alaska Supreme Court has specifically recognized that combining investigative and adjudicatory functions in a single administrative agency is legal and not a violation of due process. "That the combination of investigatory and adjudicatory functions in under one agency head is constitutionally permissible is clear" and "a combination of such functions is not a due process violation" *Earth Resources Company of Alaska v. State of Alaska, Department of Revenue,* 665 P.2d 960, fn. 1 (1983).

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

8. 3 AAC 53.290(h), partial waiver of 3 AAC 48.270(a)

Both the Rural Coalition and ACS proposed modifications to 3 AAC 53.290(h), which includes a partial waiver of 3 AAC 48.270(a). GCI supports the modification proposed by ACS.

The proposed modification of 3 AAC 53.290(h) arose before the Commission proposed de-tariffing in markets with no dominant carrier. Thus, the proposed modification was originally drafted to address the current regulatory framework. The proposed regulation will still work for markets with a dominant carrier, but as ACS suggests it is not appropriate for a market with no dominant carrier regulated under 3 AAC 53.243. Accordingly, GCI supports the change to 3 AAC 53.290(h) proposed by ACS on its Exhibit B, p. 24.

9. Rate Rebalancing

The Rural Coalition's comments on the proposed regulation on rate rebalancing include one page of discussion, followed by three single spaced pages substantially modifying the proposed regulation. The substantive changes in the Rural Coalition's revised regulation, which are not even discussed, have the effect of selecting the Rural Coalition's approach to rate rebalancing over the case-by-case adjudication favored by the Commission.

GCI agrees with the one change actually discussed and justified in the Rural Coalition's comments, namely that ILECs should be able to file rate rebalancing

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

studies at any time and not just when competition is expected. This change allows time for review without the pressure of an accelerated deadline.

GCI opposes the other changes proposed by the Rural Coalition that have the effect of selecting the Rural Coalition's approach to rate rebalancing over the case-by-case adjudication favored by the Commission. Rural Coalition's proposed 3 AAC 53.245(b)(9) requires the use of company-wide separations factors applied to each noncompetitive exchange. The proposed that use of separations factors is the only way the Rural Coalition can achieve its anti-competitive rate rebalancing objectives, and the proposal is totally contrary to the Rural Coalition's own position that rate rebalancing should treat each exchange as a stand-alone basis to the extent possible.[11] More importantly, the only evidence on the record on this subject, presented by GCI, clearly shows that using company-wide separations factors deprives the small exchanges of the amount of Universal Service Fund (USF) support that they are due.[12] This proposed change should be rejected.

Similarly, Rural Coalition's proposed 3 AAC 53.245(b)(6) requires that a rate rebalancing study be based on the existing USF disaggregation plan, locking in the current flawed plans that create the need for rate rebalancing. Again, the Rural Coalition is attempting to get the Commission to adopt its own rate rebalancing approach, without discussion or support. Proposed 3 AAC 53.245(b)(6) is also

[11] See Rural Coalition Post-Workshop Comments, R-03-3, pp 26, 28, 30, and fns. 23, 24, 25.
[12] See GCI's Post-Workshop Reply Comments, pp. 6-8 and Appendix (March 14, 2005)

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

inconsistent with proposed 3 AAC 53.245(b)(7), which requires consideration of alternative disaggregation plans as an alternative to rate rebalancing.

Finally, and again without discussion, the Rural Coalition's proposal would include a requirement that rate rebalancing would result in a new, mini-postage stamp rate area for non-competitive exchanges, rather than individual rates for each exchange. The regulations, as proposed by the Commission, are silent on that question, allowing the issue to be decided on a case by case approach.

This Rural Coalition proposal should not be adopted. That approach would guarantee the need for additional rate rebalancing each time a new exchange become competitive, which is sure to happen if the Rural Coalition succeeds in its efforts to raise the rates in non-competitive areas. The Commission should retain the current, case by case approach.

GCI also objects to the Rural Coalition's continued inclusion of proposed 3 AAC 53.245(g), which provides that a rate rebalancing proposal can be filed in an docket relating to a certificate application to aid in the consideration of the public interest. The Telecommunications Act prohibits "public interest" considerations as a bar to competitive entry. "...Congress demonstrated its intent to open all markets to potential competitors—even markets served by rural or small LECs that may qualify for interconnection relief." *In the Matter of Silver Star Telephone Company, Inc., Petition for Preemption and Declaratory Ruling, Memorandum Opinion and Order,* FCC 97-336, 12 FCC Rcd. 15639, 15659 (September 24, 1997). During the nearly 2

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

year history of this proceeding no party has ever objected to GCI's proposal to amend AAC 53.210 to allow competitive entry in all local markets, even markets without existing competition, using an abbreviated application form without any demonstration of the public interest. GCI's proposed amendment is included in the Commission's proposed regulations.

The Rural Coalition's proposal to include proposed 3 AAC 53.245(g), implying that a public interest standard applies to certificate application, should be rejected. Federal law prohibits the application of a general public interest standard to application for a certificate for competitive entry. Section 253 of the Telecommunications Act of 1996, which is titled "Removal of Barriers to Entry", prohibits the application of a public interest test to an application to provide telecommunications service.

Section 253 states a rule that no requirement may prohibit or have the effect of prohibiting any carrier to provide any telecommunications service. 47 USC 253(a). Section 253 then allows a limited exception to the rule for rural markets, namely that state Commissions can require a new entrant into a rural market to provide and advertise service throughout the ILEC's study area if the new entrant has the benefit of "wholesale resale" from the ILEC under Section 251(c)(4). In short, there can be no barriers to entry, but the Commission can require a new entrant to serve throughout a rural ILEC's service areas unless the rural ILEC has a rural exemption that prevents the new entrant from using wholesale resale in order to serve throughout the area.

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

It is very instructive to note what the rural market exception to the general rule prohibiting barriers to entry **does not** do. The rural market exception is written by referring to Section 214(e)(1), which concerns the service obligation of ETCs[13]. The exception specifically **does not** refer to Section 214(e)(2), which states that an additional ETC can be designated in a rural study area only if the commission finds that the additional ETC designation is in the public interest. 47 USC Section 214(e)(2). In other words, for rural markets Congress specifically chose to allow imposition of one ETC standard, service throughout the service area, but not to allow imposition of another ETC standard, the public interest test, as a limitation on competitive entry.[14] The unmistakable conclusion is that the "Removal of barriers to entry" standard adopted by Congress prohibits the imposition of a public interest test as a criteria for new entry.

The Federal Communications Commission explicitly affirmed this interpretation of Section 253 in *Silver Star*. That case involved an application by Silver Star to provide competitive local exchange service to a small rural exchange area in Wyoming with approximately 2336 access lines. Silver Star's application for a CPCN was denied by the Wyoming Commission based on a state statute that allowed the incumbent to block entry for a period of time. The stated purpose of the Wyoming statute, included in Legislative Intent, was "to ensure essential

[13] Eligible Telecommunications Carriers

[14] But again, even the "service throughout the service area" restriction cannot be imposed if the new entrant does not have access to wholesale resale of the ILEC's services.

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

telecommunications services are universally available to the citizens of this state while encouraging the development of new infrastructure, facilities, products and services.... It is the intent of this act to provide a transition from rate of return regulation of a monopolistic telecommunications industry to competitive markets and to maintain affordable essential telecommunications services throughout the transitions period." (*Silver Star* at 15646). In that case the FCC preempted that Wyoming statute and the Wyoming Commission, specifically ruling that denial of competitive entry based on public interest type considerations such as those set forth in the Legislative Intent was prohibited by Section 253(a). The FCC explained that Congress chose to provide limited protections for rural markets, including Section 253(f) permitting a requirement for service throughout an area and Section 214(e)(2) requiring a public interest determination for designation of a second ETC, but did not allow denial of entry: "These accommodations [253(f) and 214(e)(2)] to the unique circumstances of rural telephone companies, like those in section 251(f), indicate that Congress did not contemplate that States could "protect" rural telephone companies with the much more competitively restrictive method of a categorical ban on entry." *Silver Star* at 15959. The FCC further stated that "By granting rural and small LECs relief from the interconnection obligations instead of an outright prohibition on competition, however, Congress demonstrated its intent to open all markets to potential competitors—even markets served by rural or small LECs that may qualify for interconnection relief." (Id at 15659.)

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

This Commission has also affirmed—twice--that the Telecommunications Act does not allow the consideration of such public interest issue when judging an application for competitive entry. In Docket U-01-109, KPU requested a public hearing to test whether local competition is in the public interest, and the Commission ruled that "the Telecommunications Act precludes us from denying a certificate application for the reasons that KPU would like to demonstrate through evidence at a hearing." (Order U-01-109(3), p. 5.) This Commission affirmed that decision on reconsideration. (Order U-01-109(4)).

Thus, the Telecommunications Act, as confirmed by decisions of the FCC, demonstrates that an application for competitive entry cannot be denied based on alleged "public interest" concerns. The provision in proposed 3 AAC 53.245(g) that would insert a public interest test into an application for a certificate is contrary to law and should be rejected.

B. Provisions for Interexchange Markets

1. Market Competitiveness

ACS once again questions whether the interexchange market is competitive, contradicting prior advocacy and ignoring obvious market characteristics such as market shares and prices at or below cost. In this instance ACS alleges anticompetitive conduct by GCI involving a grant funding of the Alaska Telecommunications Users Consortium (ATUC).

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2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

ACS' is wrong. GCI commented on the ATUC proposal because GCI opposes government funding of one competitor in an existing, competitive market where other competitors are funded with private capital. Such government-subsidization of a single competitor is, as even ACS recognizes, undesirable. (ACS Comments, p. 5) The difference between ACS and GCI is that ACS concluded in this instance that ATUC did not intend to become a competitor, while GCI concluded that was exactly ATUC's intent. The Denali Commission, the agency in charge of this grant, apparently agreed with GCI and not ACS.[15]

In its redraft of proposed regulations, Exhibit B, ACS proposes in several instances to add language allowing review of rates "that may have been set on any basis other than an application of market forces." (ACS Exhibit B, p. 9, 10) GCI understands that ACS proposes this language based on its allegations of anticompetitive conduct.

GCI opposes the specific language proposed by ACS because it is extremely vague. However, GCI is pleased that ACS has apparently abandoned its contention that the Commission cannot consider antitrust considerations when it evaluates rates, and GCI would not object to more appropriate language to incorporate antitrust considerations.

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2550 Denali Street, Suite 1000
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(907) 265-5600

[15] GCI has not and does not oppose entry into its markets by other competitors. GCI did not oppose MTA's entry into the cable television market. Nor did GCI oppose KPU's entry into that market, GCI only asked that the Commission also take steps to make the local market competitive at the same time. GCI has not opposed competitive long distance entry or further local exchange entry by other entities

2. Proposed 3 AAC 52.375, Wholesale Services

AT&T Alascom proposed an amendment to proposed 3 AAC 52.375, Wholesale Services. The primary purpose of the amendment is to change the filing requirements for wholesale rate increases, eliminating requirements that are not applicable to rates determined based on incremental and embedded direct, rather than rate based/rate of return, methodologies. AT&T Alascom's proposals are consistent with the initial comments of GCI and GCI urges that they be adopted.

3. Carrier of Last Resort Obligations

AT&T Alascom complains that the proposed regulations now place requirement on it, as the carrier of last resort (COLR), that are actually only appropriate for a dominant carrier. AT&T Alascom cites the fact that the requirements, as they currently exist, apply to dominant carriers, not the carrier of last resort.

GCI takes no position as to whether any particular requirement can be or should be imposed on AT&T Alascom as COLR. GCI does disagree, however, with some of the arguments presented by AT&T Alascom.

There is an inherent flaw in AT&T Alascom's argument that any requirement in the current regulation that applies based on a dominant status applies only because of that status and not because of carrier of last resort status. The flaw is that under current regulations "dominant carrier" equals "carrier of last resort". "A dominant carrier is responsible for providing intrastate interexchange telephone service as the

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

carrier of last resort." 3 AAC 52.390(2) Therefore, there was little need for the Commission to carefully distinguish between the two concepts when it previously adopted regulations.

This can be best seen in the current version of 3 AAC 52.365. That section establishes a lesser standard for discontinuance, suspension, or abandonment of service by a nondominant, but not a dominant, carrier. It seems obvious that abandonment of service is a carrier of last resort concept, but the current regulations address the concept in terms of dominant/nondominant requirements.

GCI also notes its doubts regarding AT&T's statistic that it now has a market share of only 42 percent. This low market share percentage appears to be the result of AT&T Alascom's continuing inability to accurately report all of the minutes associated with Alaska to Alaska debit card traffic.

III. Conclusion

As noted at the outset, relatively few significant issues remain to be resolved in this Docket. GCI's appreciates the Commission's diligent efforts.

The regulations ultimately adopted in this matter will provide incumbent carriers virtually all the tools that they requested to enable them to face competitive entry. The regulations will more than fulfill every principle and standard in HB 111 regarding treatment of incumbents.

Almost lost in this Docket, however, are the provisions of HB 111 clearly favoring the competitive providing of all telecommunications services. HB 111 also

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

states that "competition among telecommunications companies shall be encouraged." HB111(b)(4). There is only one provision in the regulations that encourages competition, and that is the amendment to 3 AAC 53.210 that simplifies the application process for a certificate of public convenience and necessity.

Thus, with the final adoption of regulations establishing a revised market structure for competitive local markets, it will also be time to truly fulfill the intent of HB 111 by granting applications to provide competitive local exchange service and allowing competition to begin.

DATED at Anchorage, Alaska this 19th day of May, 2005.

GENERAL COMMUNICATION, INC.

BY: _____
James R. Jackson
Its: Regulatory Attorney

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600

VERIFICATION

I, James R. Jackson, verify that I believe the statements contained in this pleading are true and accurate.

James R. Jackson

SUBSCRIBED AND SWORN to before me this 19th day of May, 2005.

NANCY NEWELL NOTARY PUBLIC STATE OF ALASKA My Commission Expires:

Notary Public in and for Alaska
My commission expires: May 26, 06

GCI Communication Corp.
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5600